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February 19, 2015

To: Mayor Michael D. Antonovich
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From: Sachi A. Hamai 
Interim Chief Executive Officer

WASHINGTON, D.C. UPDATE -- PURSUIT OF COUNTY POSITION ON VOTING RIGHTS ACT LEGISLATION

This memorandum contains a pursuit of County position to support H.R. 885 (Sensenbrenner R-WI), the Voting Rights Amendments Act of 2015, or similar legislation that would update Section 4 of the Voting Rights Act to effectively protect voting rights and pass constitutional muster.

Background

The Voting Rights Act (VRA) of 1965 was enacted in order to strengthen the enforcement of the 15th Amendment to the Constitution, which provides that the right of citizens to vote shall not be denied or abridged on account of race, color, or previous servitude. On June 25, 2013, in a 5 to 4 decision (*Shelby County v. Holder*), the United States Supreme Court struck down as unconstitutional Section 4(b) of the VRA, which contained the coverage formula that determined which states and jurisdictions had a history of voting discrimination, and, therefore, were required to obtain prior approval ("pre-clearance") from the federal government before implementing changes in election rules and procedures, such as those affecting redistricting, voter registration, and voter identification.

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The majority opinion noted that “voting discrimination still exists,” but that Section 4(b) of the VRA is unconstitutional because it conflicts with constitutional principles of federalism and “equal sovereignty of the states” by subjecting covered jurisdictions to federal oversight “based on 40-year-old facts having no logical relationship to the present day.” The dissenting minority contended that Congress, not the Court, is the body which should decide which jurisdictions are subject to the VRA’s pre-clearance procedures. The VRA originally was enacted in 1965, and subsequently amended and reauthorized five times -- most recently in 2006 under H.R. 9 (P.L. 109-246).

Voting Rights Amendments Act of 2015

On February 11, 2015, Representative Jim Sensenbrenner (R-WI) introduced the Voting Rights Amendments Act of 2015 (H.R. 885), which would satisfy the Supreme Court’s concern that the pre-clearance requirement be based on current voting conditions rather than on “40-year old facts.” The bill amends Section 4 of the VRA to establish a new coverage formula to cover any state with five or more voting rights violations, including at least one violation committed by the state itself, during the past 15 years. It also would cover any political subdivision with: (1) three or more voting rights violations; or (2) one or more violations and “persistent, extremely low minority turnout” during the past 15 years. A covered state or jurisdiction would be subject to pre-clearance for up to 10 years.

H.R. 885 has 30 co-sponsors, including 24 Democrats and six Republicans. It is identical to H.R. 3899 (Sensenbrenner, R-WI) and S. 1945 (Leahy, D-VT), which were introduced in January 2014. The bills died after the 113th Congress adjourned without taking any action on either bill. H.R. 3899 had 166 Democrat and 11 Republican co-sponsors, including 12 Democrats from the County’s House delegation. S. 1945 was co-sponsored by 12 senators, all of whom were Democrats, including Senator Feinstein. H.R. 885 has been referred to the House Judiciary Committee, which has not scheduled any hearings or mark-up on the bill. Representative Sensenbrenner is a strong supporter of the Voting Rights Act, who chaired the House Judiciary Committee when the VRA was last reauthorized in 2006.

Pursuit of County Position on Legislation

The County’s Federal Legislative Agenda includes a policy to support legislation to support legislation to update Section 4 of the Voting Rights Act in order to effectively protect voting rights and pass constitutional muster, which was added pursuant to a Board order adopted on August 27, 2013. **Based on this existing policy, and unless**

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otherwise instructed by the Board, the County's Washington, D.C. advocates will support H.R. 885 or similar legislation that would update Section 4 of the Voting Rights Act to effectively protect voting rights and pass constitutional muster.

We will continue to keep you advised.

SAH:MR
MT:ma

c: All Department Heads
Legislative Strategist